

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF SCOTT

FOUTH JUDICIAL DISTRICT  
Case Type: Personal InjuryHEIDI LEUTHNER and  
KYLE LEUTHNER,

Court File No.:

Plaintiffs,

vs.

**SUMMONS**

SAM'S CLUB A DIVISION OF WALMART  
STORES, INC., SAM'S REAL ESTATE  
BUSINESS TRUST and WALMART STORES,  
INC.

Defendants.

**THIS SUMMONS IS DIRECTED TO: DEFENDANTS ABOVE-NAMED AND THEIR ATTORNEY(S)**

**1. YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this summons.

**2. YOU MUST REPLY WITHIN 20 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this summons a **written response** called an Answer within 20 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this summons located at:

McCARTY LAW LLP  
Kayla J. Giese, Esquire  
Minnesota State Bar No. 0396480  
[kgiese@mccarty-law.com](mailto:kgiese@mccarty-law.com)  
2401 E. Enterprise Avenue  
Appleton WI 54913-4887

Service Emails:  
[kgiese@mccarty-law.com](mailto:kgiese@mccarty-law.com)  
[dzunker@mccarty-law.com](mailto:dzunker@mccarty-law.com)

**3. YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

**4. YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 20\*\* days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the complaint. If you do not want to contest the claims stated in the complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the complaint.

**5. LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**

**6. ALTERNATIVE DISPUTE RESOLUTION.** The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

Electronically signed by Kayla J. Giese 06/13/2022  
Kayla J. Giese Dated

**STATE OF MINNESOTA****DISTRICT COURT****COUNTY OF SCOTT****FOUTH JUDICIAL DISTRICT**  
**Case Type: Personal Injury**HEIDI LEUTHNER and  
KYLE LEUTHNER,

Court File No.:

Plaintiffs,

vs.

**COMPLAINT**SAM'S CLUB A DIVISION OF WALMART  
STORES, INC. , SAM'S REAL ESTATE  
BUSINESS TRUST and WALMART STORES,  
INC.

Defendants.

TO: DEFENDANTS ABOVE-NAMED AND THEIR ATTORNEY(S):

COMES NOW, Plaintiffs, Heidi Leuthner and Kyle Leuthner, by and through their attorneys, McCarty Law LLP, for their complaint against Defendants Sam's Club, a division of Walmart Stores, Inc., Sam's Real Estate Business Trust and Walmart Stores, Inc. (Collectively referred to as "Defendants"), and states and alleges as follows:

## I.

At all times material, Plaintiff, Heidi Leuthner (hereinafter "Plaintiff"), was an adult female resident of the State of Minnesota.

## II.

At all times material, Plaintiff, Kyle Leuthner, (hereinafter "Plaintiff's Spouse") was an adult male resident of the status Minnesota; that Plaintiff's Spouse has an interest in Plaintiff's damages.

## III.

At all times material, Defendants were doing substantial business in the State of

Minnesota.

IV.

On or about July 29, 2016, Plaintiff was involved in an accident at Defendant's property at 8201 Old Carriage Ct., Shakopee, Minnesota 55379 (Hereinafter "the Property").

V.

At all times material, Plaintiff was pushing a grocery cart and returning it to a cart corral within the parking lot on the Property owned by Defendants.

VI.

At all times material, Defendants owned and operated a retail store on the Property doing business as Sam's Club.)

VII.

At all times material, Defendants were responsible to take reasonable care to discover the actual condition of the property and either make the premises safe or warn Plaintiff of the dangers.

VIII.

Defendants were negligent in the maintenance of the Property and failed to reasonably maintain the parking lot, proximately causing injury to Plaintiff.

IX.

At all times material, Defendant failed to maintain its property and allowed large depressions in the parking lot.

X.

Plaintiff unknowingly stepped into a depression, tripped and fell.

## XI.

As a direct and proximate result of the negligent conduct or omissions of Defendants, the Plaintiff sustained injuries including but not limited to her knee and has sustained past and will in the future incur medical expenses for the treatment of her injuries; has in the past and will in the future incur a loss of earnings and earning capacity; and in the past and will in the future experience physical and mental pain; and has been hereby damaged and injured in an amount greater than \$50,000.00.

## XII.

WHEREFORE, Plaintiffs demand a trial by jury and judgment against Defendants, as follows:

- a. Plaintiffs demand a judgment against the Defendants in an amount greater than Fifty Thousand (\$50,000.00) Dollars;
- b. For all applicable interest, costs, disbursements and attorney's fees incurred herein; and
- c. For such further relief as the Court deems just and equitable.

McCARTY LAW, LLP  
ATTORNEYS FOR PLAINTIFFS

Dated: June 13, 2022

*Electronically signed by Kayla J. Giese*

Kayla J. Giese  
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## ACKNOWLEDGEMENT

The undersigned attorney acknowledges, pursuant to Minn. Stat. §549.211 (2), that the attorney and the attorney's client are aware that upon motion of a party, or upon the court's own motion, the court in its discretion may award to that party costs, disbursements, reasonable attorney's fees and witness fees if the party or attorney against whom costs, disbursements, reasonable attorney and witness fees are charged acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted on unfounded position solely to delay the ordinary course of the proceedings or to harass, or committed a fraud upon the court.

Dated: June 13, 2022

*Electronically signed by Kayla J. Giese*